IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2620 of 2007()

ST.2699/2005 of JUDL. MAGISTRATE OF FIRST CLASS, VAIKOM
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PETITIONER: ACCUSED

BIJU ABRAHAM,
S/O.ABRAHAM, AGED 28 YEARS,
MANGATT ORATH HOUSE, KANJIRAPARAYIL,
ARUNNOTTIMANGALAM KARA.

BY ADV. SRI.K.V.SABU

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERANAKULAM,

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2620 Of 2007

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Dated this the 17th day of August, 2007

ORDER

Petitioner faces indictment in a prosecution for offences punishable, inter alia, under section 506 (i) and 323 IPC. Cognizance has been taken. The petitioner appeared before the learned Magistrate. He was enlarged on bail. On 28.6.07, when the case was posted for hearing the petitioner could not appear before the learned Magistrate. Consequently a warrant of arrest has been issued by the learned Magistrate. The said warrant is chasing the petitioner. The case is posted to 18.8.07. The petitioner submits that he is innocent. His absence was not intentional and was on account of reasons beyond his control, it is submitted. He is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application may not be considered by the learned Magistrate. In these circumstances, appropriate directions may be issued under section 482 Cr.P.C, prays the learned counsel for the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE